



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Patent Application of)	
Peter Gluckman et al.)	Group Art Unit: 1653
Application No.: 10/606,745)	Examiner: Unassigned
Filed: June 27, 2003)	Confirmation No.: 5345
For: IFG-1 TO IMPROVE NEURAL OUTCOME)	

REISSUE APPLICATION DECLARATION BY THE INVENTORS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Peter Gluckman, residing at 78 Lucerne Road, Remuera, Auckland, 5, New Zealand (citizen of New Zealand), and Karoly Nikolics, residing at 624 Lakemead Way, Emerald Hills, California 94062 (citizen of Hungary and the United States), do hereby declare and state that:

(1) We reside at the above-identified respective residences and are the original first and joint inventors of the invention described in U.S. Patent No. 5,714,460, issued February 3, 1998 ("the '460 patent"), and described and claimed in the application for a reissue application.

(2) We have reviewed and understand the contents of the above-identified reissue application for reissue patent, including newly presented Claims 1-48.

(3) We acknowledge the duty to disclose information material to the examination of this application in accordance with Title 37, Code of Federal Regulation §1.56(a).

(4) U.S. Patent No. 5,714,460 is wholly or partly inoperative or invalid by reasons of the patentees claiming more or less than they had the right to claim in the patent by reason of Claim 1 of the '460 patent being susceptible to the broad interpretation that the method treats neural damage to any neural cell, rather than being limited to treatment of glia and non-cholinergic cells.

(5) Claim 1 of the '460 patent as issued read as follows:

A method of treating neural damage suffered after a CNS insult affecting glia or other non-cholinergic cells in a mammal, comprising administering to the central nervous system of said mammal an effective amount of IGF-1 and/or a biologically active analogue of IGF-1.

(6) In a Decision in Interference 104,553 involving the '460 patent, the Board stated that "[t]he Gluckman claims making up the count require an 'insult' affecting glia or non-cholinergic cells', but are not limited to conditions in which glia and other non-cholinergic cell loss predominates." (Decision on Motions, p. 21)

(7) The Board also stated in the Decision that "[t]he broadest reasonable construction of Gluckman's 460 claim 1 and 373 claim 1 is that the treatment must be for a CNS insult 'affecting' glia or other non-cholinergic cells, but may also affect cholinergic neurons." (Decision on Motions, p. 40)

(8) In light of the broad construction of Claim 1 of the '460 patent, the Board found it unpatentable over prior art.

(9) The claims submitted in the present reissue application are directed specifically to "treating glial cells damaged from CNS injury" (Claims 1-24) and to "treating non-cholinergic cells damaged from CNS injury" (Claims 25-48).

(10) We hereby appoint the attorneys of Burns, Doane, Swecker & Mathis, L.L.P. (**Customer No. 21839**) with full power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office in connection therewith:

All correspondence may be directed to:



21839

Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404
Telephone: 703-836-6620
Facsimile: 703-836-2021

(11) The undersigned declare further that all statements made herein are believed to be true and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code and that such willful, false statements may jeopardize the validity of the application and any patent issued or reissued thereon.

Full name of first inventor Peter Gluckman

Inventor's signature

Date

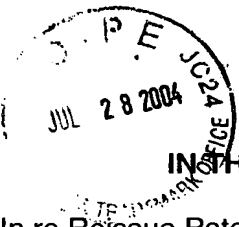
Residence 78 Lucerne Road, Remuera, Auckland, 5, New Zealand

Full name of second inventor Karoly Nikolics

Inventor's signature

Date

Residence 624 Lakemead Way, Emerald Hills, California 94062



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Full name of first inventor Peter Gluckman

Inventor's signature _____ Date _____

Residence 78 Lucerne Road, Remuera, Auckland, 5, New Zealand

Full name of second inventor Karoly Nikolics

Inventor's signature *Karoly Nikolics* Date 6/18/2004

Residence 624 Lakemead Way, Emerald Hills, California 94062